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BEFORE THE DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	
)	No. D-2655
HUGH S. HAAS, M.D.)	
Certificate No. A-13049)	N 16138
)	
Respondent.)	

DECISION

The attached Proposed Decision of the Administrative Law Judge is hereby adopted by the Division of Medical Quality of the Board of Medical Quality Assurance as its Decision in the above-entitled matter.

This Decision shall become effective on January 18, 1982.

IT IS SO ORDERED December 17, 1981.

DIVISION OF MEDICAL QUALITY
BOARD OF MEDICAL QUALITY ASSURANCE


MILLER MEDEARIS
Secretary-Treasurer

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DEPARTMENT OF CONSUMER ARRAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)	
Against:)	No. D-2655
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HUGH S. HAAS, M.D.)	N 16138
2830 North Van Ness)	
Fresno, California 93704)	
Certificate No. A-13049)	
)	
Respondent.)	
)	

PROPOSED DECISION

This matter came on regularly for hearing before Philip V. Sarkisian, administrative law judge of the office of Administrative Hearings, at Fresno, California, on October 6 and 7, 1981. The complainant was represented by Michael H. Fabian, deputy attorney general. The respondent appeared in person and was represented by Donald R. Fischbach, attorney at law. Oral and documentary evidence was introduced and the case was submitted.

The following decision is proposed, certified and recommended for adoption:

FINDINGS OF FACT

I

Complainant Robert Rowland is the executive director of the Board of Medical Quality Assurance of the State of California (hereinafter referred to as the "Board"). He made the accusation solely in such official capacity.

II

On or about May 24, 1949, respondent Hugh S. Hass, M.D., was issued physician's and surgeon's certificate No. A-13049 by the Board to practice medicine and surgery in the

State of California. At all times mentioned herein respondent was and now is licensed by the Board to practice medicine and surgery in this state.

III

Demerol is a Schedule II controlled substance pursuant to section 11055(c)(17) of the Health and Safety Code and is also listed as a Schedule II controlled substance under section 1308.12(c)(17) of title 21, Code of Federal Regulations.

IV

Dexamyl and biphettamine are amphetamine derivatives and are also listed as Schedule II controlled substances pursuant to section 11055(d)(1) of the Health and Safety Code and are classified as Schedule II controlled substances under section 1308.12(d)(1) of title 21, Code of Federal Regulations.

V

Approximately four (4) years ago respondent's wife, P█████ H█████, began suffering from severe migraine headaches. Respondent referred her to a neurologist who saw her in August of 1978. He confirmed respondent's diagnosis of migraine headaches and prescribed demerol for relief from the pain. Mrs. H█████ is still under the care of this neurologist. The neurologist prescribed demerol for Mrs. H█████ in March and June of 1981, as well as the initial prescription of August 1978.

The neurologist and Dr. H█████ have discussed Mrs. H█████' condition from time to time. The neurologist has tried a variety of pain medication other than demerol. He has known that respondent would administer the demerol which he prescribed for Mrs. H█████. He relies on respondent's judgment in this matter. The neurologist opines that Mrs. H█████ is not addicted to demerol nor has she abused the drug.

VI

A. On or about October 25, 1978, respondent removed from the Fresno County Jail infirmary three 50 mg. ampules of demerol. The drug was for his wife, who was suffering pain from the migraine headaches. He promptly replaced the demerol.

B. On the following occasions, respondent asked other doctors as a professional courtesy to write prescriptions for his wife, P█████ H█████, for demerol without benefit of an examination and while not under their care for a pathology or condition:

(1) On or about July 1, 1979, respondent had Dr. F█████ issue 30 cc demerol, 50 milligrams, for P█████ H█████.

(2) On or about November 12, 1979, respondent had Dr. Finley issue 10 ampules of demerol for Patti Haas.

(3) On or about January 2, 1980, respondent had Dr. K█████ issue a perscription for five ampules of demerol, 100 milligrams, for P█████ H█████.

VII

In addition to the migraine headaches, Mrs. H█████ has suffered from depression for many years. She has been treated by the same psychiatrist for this condition since 1966 and is currently under his care. This physician and respondent have discussed Mrs. H█████' condition and treatment. At the psychiatrist's suggestions, respondent has prescribed and administered the following controlled substances for his wife:

(1) On or about August 25, 1979, respondent issued a prescription for five doses of dexamyl spansules No. 1 for his wife.

(2) On or about November 11, 1979, respondent issued a prescription for ten doses biphetamine, 20 milligrams, for his wife.

(3) On or about January 8, 1980, respondent issued a prescription for 50 doses of dexamyl spansules No. 1 for his wife.

(4) On or about May 31, 1980, respondent issued a prescription for 50 doses of dexamyl spansules No. 2 for his wife.

VIII

Respondent has failed to make and keep records regarding the administration of drugs to his wife as specified above, thereby violating Health and Safety Code section 11158.

IX

It was not proven that respondent obtained controlled substances by fraud, deceit, misrepresentation, or subterfuge. Dr. F█████ and Dr. K█████ knew the drug was

for Mrs. H[REDACTED] and knew she suffered pain from migraines. When Dr. Haas took the demerol from the jail infirmary, it was an emergency situation.

X

All the drugs specified herein were given to his wife for diagnosed pathologies or conditions. As indicated above, it does not appear that Mrs. H[REDACTED] is a drug abuser or an addict.

Dr. H[REDACTED] has practiced medicine in the Fresno area for many years. He retired from private practice in 1979 and now works primarily as an emergency room specialist for two local hospitals. He is a board certified specialist in family practice. Dr. Haas is highly regarded by many of his colleagues for his professional and personal qualities. There is no evidence of any prior disciplinary action.

Dr. Haas continued to treat his wife, in cooperation with her neurologist and psychiatrist. He is aware of the importance of maintaining proper records, particularly in connection with use of controlled substances. Future violations seem unlikely.

DETERMINATION OF ISSUES

1. The conduct of respondent described in Paragraphs VI, VII and VIII of the Findings of Fact subjects him to disciplinary action pursuant to Business and Professions Code sections 2361, 2391.5 and 2361(a). By said conduct, respondent has violated Health and Safety Code sections 11158, 11171 and 11190.

2. Violation of Health and Safety Code sections 11154 and 11173 were not proven.

ORDER

Certificate No. A-13049 issued to respondent, Hugh S. Haas, M.D., is suspended for ninety (90) days. The suspension is stayed and respondent is placed on probation for three (3) years upon the following terms and conditions:

1. Respondent shall maintain a record of all controlled substances prescribed, dispensed or administered by the respondent during probation, showing all the following: 1) the name and address of the patient, 2) the date, 3) the character and quantity of controlled substances involved, and 4) the pathology and purpose for which the controlled substance was furnished.

2. Respondent shall obey all federal, state and local laws, and all rules governing the practice of medicine in California.

3. Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation.

4. Respondent shall comply with the Division's probation surveillance program.


5. Respondent shall appear in person for interviews with the Division's medical consultant upon request at various intervals and with reasonable notice.

6. In the event respondent should leave California to reside or to practice outside the State, respondent must notify in writing the Division of the dates of departure and return. Periods of residency or practice outside California will not apply to the reduction of this probationary period.

Upon successful completion of probation, respondent's certificate will be fully restored.

If respondent violates probation in any respect, the Division, after giving respondent notice and the opportunity to be heard, may revoke probation and carry out the disciplinary order that was stayed. If an accusation or petition to revoke probation is filed against respondent during probation, the Division shall have continuing jurisdiction until the matter is final, and the period of probation shall be extended until the matter is final.

DATED: October 30, 1981



PHILIP V. SARKISIAN
Administrative Law Judge

PVS:rem

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 2 of the State of California
 3 MICHAEL H. FABIAN,
 4 Deputy Attorney General
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 6 Sacramento, California 95814
 7 Telephone: (916) 445-1939
 8 Attorneys for the Complainant.

BEFORE THE DIVISION OF MEDICAL QUALITY
 BOARD OF MEDICAL QUALITY ASSURANCE
 DEPARTMENT OF CONSUMER AFFAIRS
 STATE OF CALIFORNIA

11	In the Matter of the Accusation)	No. D-2655
12	Against:)	
)	<u>ACCUSATION</u>
13	HUGH S. HAAS, M.D.)	
14	2830 North Van Ness)	
	Fresno, California 93704)	
	Certificate No. A-13049)	
15	Respondent.)	

16
 17 COMES NOW THE COMPLAINANT, ROBERT ROWLAND, and as
 18 causes for disciplinary action against the above-named
 19 respondent, alleges as follows:

20 I

21 Complainant, Robert Rowland, is the Executive
 22 Director of the Board of Medical Quality Assurance of the
 23 State of California (hereinafter referred to as the "Board")
 24 and makes this accusation solely in such official capacity.

25 II

26 Respondent, Hugh S. Haas, M.D., on or about May 24,
 27 1949, was issued Physician's and Surgeon's Certificate No.

1 A-13049 by the Board to practice medicine and surgery in the
2 State of California and at all times mentioned herein respondent
3 was and now is licensed by the Board to practice medicine
4 and surgery in this State.

5 III

6 Section 2360 of the Business and Professions Code
7 provides as follows:

8 "Every certificate issued may be suspended or
9 revoked. The Division of Licensing shall refuse a
10 certificate to any applicant guilty of unprofessional
11 conduct. The proceedings under this article shall
12 be conducted in accordance with Chapter 5 (commencing
13 with Section 11500) of Part 1 of Division 3 of
14 Title 2 of the Government Code, and the Division
15 of Licensing and the Division of Medical Quality
16 shall have all the powers granted therein."

17 IV

18 Section 2361 of the Business and Professions Code
19 provides as follows:

20 "The Division of Medical Quality shall take
21 action against any holder of a certificate, who is
22 guilty of unprofessional conduct which has been
23 brought to its attention, or whose certificate has
24 been procured by fraud or misrepresentation or
25 issued by mistake.

26 "Unprofessional conduct includes, but is not
27 limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision or term of this chapter.

"(b) Gross negligence.

"(c) Repeated similar negligent acts.

"(d) Incompetence.

"(e) Gross immorality.

"(f) The commission of any act involving moral turpitude, dishonesty, or corruption, whether the act is committed in the course of the individual's activities as a certificate holder, or otherwise, or whether the act is a felony or a misdemeanor.

"(g) Any action or conduct which would have warranted the denial of the certificate."

V

Section 2391.5 of the Business and Professions Code provides as follows:

"A violation of any federal statute, or rule or regulation or any of the statutes or rules or regulations of this state regulating narcotics, dangerous drugs, or controlled substances, constitutes unprofessional conduct within the meaning of this chapter."

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VI

Section 11154 of the Health and Safety Code provides that except in the regular practice of his profession, no person shall prescribe, administer, dispense, or furnish a controlled substance to or for any person who is not under his treatment for a pathology or condition other than addiction to a controlled substance, except as provided in this division (division 10, Uniform Controlled Substances Act).

VII

Section 11158 of the Health and Safety Code provides that except as provided in section 11159, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter (chapter 4, Prescriptions, division 10, Uniform Controlled Substances Act).

VIII

Section 11171 of the Health and Safety Code provides that no person shall prescribe, administer, or furnish a controlled substance except under the conditions and in the manner provided by this this division (division 10, Uniform Controlled Substances Act).

IX

Section 11173 of the Health and Safety Code in pertinent part provides that: (a) no person shall obtain or attempt to obtain controlled substances, or procure or attempt to procure the administration of or prescription for

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1 controlled substances, (1) by fraud, deceit, misrepresentation,
2 or subterfuge; or (2) by the concealment of a material fact.

3 X

4 Section 11190 of the Health and Safety Code provides
5 that every practitioner, other than a pharmacist, who issues
6 a prescription, or dispenses or administers a controlled
7 substance classified in Schedule II shall make a record
8 that, as to the transaction, shows all of the following:

9 (a) The name and address of the patient.

10 (b) The date.

11 (c) The character and quantity of controlled
12 substances involved.

13 The prescriber's record shall show the pathology
14 and purpose for which the prescription is issued, or the
15 controlled substance administered, prescribed, or dispensed.

16 XI

17 Demerol is a Schedule II controlled substance
18 pursuant to section 11055(c)(17) of the Health and Safety
19 Code and is also listed as a Schedule II controlled substance
20 under section 1308.12(c)(17) of title 21, Code of Federal
21 Regulations.

22 XII

23 Dexamyl and biphetamine are amphetamine derivatives
24 and are also listed as Schedule II controlled substances
25 pursuant to section 11055(d)(1) of the Health and Safety
26 Code and are classified as Schedule II controlled substances

27 ///

1 under section 1308.12(d)(1) of title 21, Code of Federal
2 Regulations.

3 XIII

4 Respondent Hugh S. Haas, M.D., is subject to
5 disciplinary action pursuant to section 2361 for the following
6 acts which constitute unprofessional conduct:

7 (A) Respondent prescribed for and administered to
8 his wife, P ~~XXXX~~ H ~~XXXX~~, the following controlled substances:

9 (1) On or about October 25, 1978, respondent
10 removed from the Fresno County jail infirmary three
11 ampules of demerol, 50 milligram, which were purportedly
12 for his wife.

13 (2) On or about November 1, 1980, respondent
14 removed from the Fresno County jail infirmary two
15 tubexes of demerol, 50 milligram, which were purportedly
16 for his wife.

17 (3) On or about August 25, 1979, respondent
18 issued a prescription for five doses of dexamyl spansules
19 No. 1 for his wife.

20 (4) On or about November 11, 1979, respondent
21 issued a prescription for ten doses biphedamine, 20
22 milligram, for his wife.

23 (5) On or about January 8, 1980, respondent
24 issued a prescription for 50 doses of dexamyl spansules
25 No. 1 for his wife.

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27 ///

1 (6) On or about May 31, 1980, respondent issued a
2 prescription for 50 doses of dexamyl spansules No. 2
3 for his wife.

4 (7) On or about July 26, 1980, respondent issued
5 a prescription for 80 doses of dexamyl spansules No. 2
6 for his wife.

7 (B) On the following occasions, respondent asked
8 other doctors as a professional courtesy to write prescriptions
9 for his wife, P [REDACTED] H [REDACTED], for the following controlled
10 substances without benefit of an examination and while not
11 under their care for a pathology or condition:

12 (1) On or about April 4, 1979, respondent had
13 Dr. W [REDACTED] issue a prescription for 10 doses of demerol,
14 100 milligram, for P [REDACTED] H [REDACTED].

15 (2) On or about July 1, 1979, respondent had
16 Dr. F [REDACTED] issue 30 cc demerol, 50 milligram, for P [REDACTED]
17 H [REDACTED].

18 (3) On or about November 12, 1979, respondent had
19 Dr. F [REDACTED] issue 10 ampules of demerol for P [REDACTED] H [REDACTED].

20 (4) On or about January 2, 1980, respondent had
21 Dr. K [REDACTED] issue a prescription for for five ampules
22 of demerol, 100 milligram, for P [REDACTED] H [REDACTED].

23 XIV

24 Respondent Hugh S. Haas, M.D., violated the following
25 statutes regulating controlled substances within the State
26 of California and each separate allegation subjects him to
27 disciplinary action pursuant to section 2391.5 and 2361(a):

1 (A) Respondent violated Health and Safety Code
2 section 11154 in that on each of those occasions as alleged
3 in paragraph XIII he prescribed, administered to and/or
4 furnished the controlled substances as specified in said
5 paragraph to his wife, P ~~XXXX~~ H ~~XXXX~~, who was not under his
6 treatment for a pathology or condition.

7 (B) Respondent violated Health and Safety Code
8 section 11158 in that on or about October 25, 1978, he
9 dispensed without a prescription three ampules of demerol,
10 50 milligram, to his wife P ~~XXXX~~ H ~~XXXX~~.

11 (C) Respondent violated Health and Safety Code
12 section 11158 in that on or about November 1, 1980, he
13 dispensed without a prescription two ampules of demerol, 50
14 milligram, to his wife P ~~XXXX~~ H ~~XXXX~~.

15 (D) Respondent violated Health and Safety Code
16 section 11171 in that he furnished controlled substances to
17 his wife, Patti Haas, as more particularly alleged in para-
18 graph XIII in a manner contrary to the Uniform Controlled
19 Substances Act. In particular, respondent violated Health
20 and Safety Code sections 11154 and 11158.

21 (E) Respondent violated Health and Safety Code
22 section 11173 in that he obtained the controlled substances
23 alleged in paragraph XIII by fraud, deceit, misrepresentation
24 and/or subterfuge.

25 (F) Respondent violated Health and Safety Code
26 section 11190 in that in each of the instances as more
27 particularly alleged in paragraph XIII wherein he prescribed,

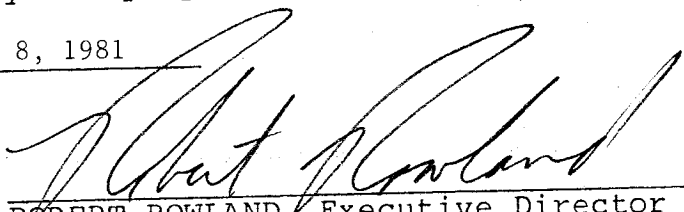
1 dispensed or administered the specified controlled substances
2 to his wife, ~~Patricia H~~, he failed to make and keep records
3 regarding said drugs as administered.

4 WHEREFORE, complainant prays that the Division of
5 Medical Quality hold a hearing on the matters alleged herein,
6 and following said hearing, issue a decision:

7 (1) Revoking or suspending the certificate of
8 licensure heretofore issued to Hugh S. Haas, M.D.; and

9 (2) Taking such other and further action as the
10 Board deems necessary and proper.

11 DATED: January 8, 1981

12 
13 ROBERT ROWLAND, Executive Director
14 Division of Medical Quality
15 Board of Medical Quality Assurance
16 Department of Consumer Affairs
17 State of California
18 Complainant
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